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10 Attorneys for Plaintiffs,
11 ARISTA RECORDS LLC; UMG
12 RECORDINGS, INC.; SONY BMG
13 MUSIC ENTERTAINMENT; and
14 INTERSCOPE RECORDS
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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION
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21 ARISTA RECORDS LLC, a Delaware limited
22 liability company; UMG RECORDINGS, INC.,
23 a Delaware corporation; SONY BMG MUSIC
24 ENTERTAINMENT, a Delaware general
25 partnership; and INTERSCOPE RECORDS, a
26 California general partnership,

27 Plaintiffs,
28

v.

DARRYL HORVAT,

Defendant.

CASE NO. 3:08-01041-SC

Honorable Samuel Conti

***EX PARTE APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND [PROPOSED] ORDER***

1 Plaintiffs respectfully request that the Court continue the case management conference
2 currently set for September 5, 2008, at 10:00 a.m., to November 7, 2008. As further explained
3 below, Defendant Darryl Horvat (“Defendant”) has not appeared in this action. Therefore, a case
4 management conference is unnecessary at this time.

5 1. Plaintiffs have previously requested and the court has granted one continuance of the
6 case management conference in this matter.

7 2. Plaintiffs initially filed the Complaint in this matter against a John Doe defendant. In
8 order to discover the Doe defendant’s true identity, Plaintiffs also filed an *Ex Parte* Application for
9 Leave to Take Immediate Discovery seeking the Court’s permission to serve a Rule 45 subpoena on
10 Defendant’s Internet Service Provider (“ISP”), in this case the University of California, Santa Cruz.
11 Once the court granted the discovery order, Plaintiffs then served a subpoena on the ISP, which
12 thereafter identified the Defendant, Darryl Horvat.

13 3. Once the ISP identified Defendant, Plaintiffs sent him a letter on April 29, 2008
14 notifying him of Plaintiffs’ claims and encouraging him to contact Plaintiffs and attempt to amicably
15 resolve this matter. Although Defendant responded to this letter on May 8, 2008, and Plaintiffs
16 offered to settle this matter, no settlement agreement was reached. Accordingly, on May 27, 2008,
17 Plaintiffs filed the First Amended Complaint naming Mr. Horvat individually as the Defendant.

18 4. Defendant was served with process on August 3, 2008, by substitute service.
19 Defendant has not answered or otherwise responded to the Complaint. Accordingly, if Defendant
20 does not respond to this action by September 5, 2008, Plaintiffs will file a request for entry of clerk’s
21 default at that time.

22 5. Given the circumstances of this case, there is no need for a case management
23 conference at this time. Therefore, Plaintiffs respectfully request that the Court continue the case
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1 management conference from September 5, 2008, at 10:00 a.m., to November 7, 2008, or
2 such other date as conveniences the Court.

3 Dated: August 28, 2008

HOLME ROBERTS & OWEN LLP

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5 By: /s/ Dawnieill Alise Zavala
6 DAWNIELL ALISE ZAVALA
7 Attorney for Plaintiffs

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9 **[PROPOSED] ORDER**

10 Good cause having been shown:

11 **IT IS ORDERED** that the case management conference currently set for September 5, 2008,
12 at 10:00 a.m., be continued to November 7, 2008.

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14 Dated: _____

By: _____
15 Honorable Samuel Conti
United States District Judge

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